

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David Bobardt, Planning Director
Prepared by Joseph Fiss, Principal Planner



DATE: November 16, 2007 (CC Meeting of 12/5/2007)

SUBJECT: Consider Report of Annual Review of Development Agreement Established in Connection with a 35-Acre, Detached, Single-family Residential Unit Project Located on the South Side of Los Angeles Avenue, West of Leta Yancy Road (Formerly Liberty Bell Road) (Tract 5053, Pacific Communities)

BACKGROUND

Government Code Section 65864 and City of Moorpark Municipal Code Section 15.40 provide for Development Agreements between the City and property owners in connection with proposed plans of development for specific properties. Development Agreements are designed to strengthen the planning process, to provide developers some certainty in the development process and to assure development in accordance with the terms and conditions of the agreement.

On June 16, 1999, the Moorpark City Council adopted Ordinance No. 257 (effective July 16, 1999), approving a Development Agreement between the City of Moorpark and MP Group, LLC (Pacific Communities). The agreement was approved in connection with a thirty five (35) acre, 247 unit, detached, single-family residential project located on the south side of Los Angeles Avenue, west of Leta Yancy Road (formerly Liberty Bell Road). The agreement remains in full force and effect for twenty (20) years from the operative date of the agreement (until January 15, 2019), or until the close of escrow on the initial sale of the last Affordable Housing Unit, whichever occurs last.

Provisions of the agreement require an annual review and report to the City Council on the status of completion of all aspects of the agreement. On October 4, 2006, the City Council accepted the Community Development Director's report and recommendation that, on the

basis of substantial evidence, Pacific Communities had complied in good faith with the terms and conditions of the Agreement, and deemed the annual review process complete. The developer has submitted the necessary application form, related materials, and fee/deposit for the 2007 annual review. The Planning Director has reviewed the submitted information, including the project status and provides the following report.

DISCUSSION

Project Status

The following developer items have been completed or are currently in progress:

- Construction of a wall on the west property line is complete; Pacific Communities removes graffiti on an as-needed basis.
- Improvement plans for grading, streets and drainage and the Final Map for Phase I remain in the plan check process. The latest map check was returned to the developer's engineer in June 2002, and the improvement plan check package was returned to the developer in August 2002. Final corrected plans were never resubmitted.
- An agreement was reached with Ventura County Flood Control for construction of District of Moorpark Drain No. 2 (sixty (60") inch reinforced concrete pipe from Los Angeles Avenue to Arroyo Simi).
- Caltrans encroachment permits and extensions had been issued for construction of the traffic signal at Los Angeles Avenue and Shasta Avenue, and the street widening improvements along Los Angeles Avenue. Pacific Communities has dedicated the necessary right-of-way, and granted the City a construction easement to move forward with the required improvements to Los Angeles Avenue. The City is currently reviewing an agreement to reimburse the City for the cost of the improvements prior to occupancy of the first residential unit.

Due to issues related to resolution of flood plain calculations and improvements to the Arroyo Simi and other contributory storm drain systems, the developer has placed the project on hold. In 2007, the developer has expressed interest in redesigning the project, and met with City staff to discuss options. This could involve consideration by the Planning Commission and City Council of either an amendment to the existing development agreement or a completely new development agreement. At this time, however, no application for a project redesign has been submitted. The project, if revised, would include the land occupied by both Vesting Tentative Tract Map (VTTM) No. 5053 (247 units) and the later approved VTTM No. 5204 (37 units), which is referenced in the development agreement but not specified in the project description.

Pacific Communities had previously requested an amendment to provide consistency for the expiration dates of the two VTTM's and the RPD's, which they had intended to be developed as one project. The current status of entitlements for both projects is:

- Vesting Tentative Tract Map No. 5204 expired on October 18, 2005, and there are no additional extensions available.
- Residential Planned Development Permit Nos. 1996-01 and 1999-04 expired on June 16, 2006, and there are no additional extensions available.
- Vesting Tentative Map No. 5053 remains in force until June 16, 2009, under the terms of the Development Agreement.

The processing of the amendment is on hold pending the decision of the developer on whether or not to proceed with a redesigned project.

This report provides the annual review of the Development Agreement to date.

Annual Review

Developer Compliance with Terms of Agreement

Pacific Communities' development responsibilities are included in Section 6 of the Development Agreement, and include twelve (12) specific requirements, as summarized below. Compliance with the terms and conditions of the Development Agreement will occur at various stages of the development process. Action by the developer and other clarifying information has been noted.

No.	Requirement	Status
1.	Compliance with Development Agreement, Project Approvals and Subsequent approvals.	The Residential Planned Development Permit has expired. A new application will be required.
2.	Intentionally left blank in the Development Agreement.	N/A
3.	Intentionally left blank in the Development Agreement.	N/A
4.	Payment of fee in lieu of park land dedication required to be paid prior to recordation of each phase of the Final Map. The park fee is to be calculated in accordance with the City's Subdivision Ordinance requirements, but shall not be less than two thousand five hundred dollars (\$2,500) for each residential lot.	No request for fee calculation has been received. Payment required prior to Final Map recordation.

No.	Requirement	Status
5.	Payment of "Development Fees" of two thousand five hundred dollars (\$2,500) per residential unit.	These fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the Agreement. Fees must be paid prior to issuance of building permits. No building permits have been issued to date.
6.	Payment of "Citywide Traffic Fees" of three thousand dollars (\$3,000) per residential unit.	These fees will be adjusted annually (until paid) using the State Highway Bid Price Index in accordance with the Agreement. Fees must be paid prior to issuance of building permits. No building permits have been issued to date.
7.	Payment of all outstanding City processing and environmental processing costs.	The project processing account balance is current, and deposit of \$2,000 for the Development Agreement - Annual Review, was paid.
8.	Waive any right of any density bonus that would increase the number of dwelling units approved for this project.	To date, the developer has complied with this term of the agreement.
9.	Agreement to cast affirmative vote for the formation of an assessment district with the power to levy assessments for the maintenance of parkway landscaping, street lighting (upon Council request - parks conferring special benefits), and to obligate the property owners association to provide for maintenance of parkway landscaping and street lighting in the event the assessment district is dissolved.	To date, the developer has complied with this term of the agreement.
10.	Provide Affordable Housing Units as follows: Median Income Eleven (11) three (3) bedroom units Eleven (11) four (4) bedroom units Very Low Income In lieu fee of \$60,000 for each of fifteen (15) units, for a total \$900,000 to be paid at \$3,643.73 per unit prior to issuance of building permit.	Section 1.11 of the Development Agreement includes provisions for affordable housing on the approximately five (5) acre parcel (Tract No. 5204) located immediately to the east, and approved as a thirty-seven (37) lot extension of the subject development; however, the tentative map and residential planned development permit have both expired.
11.	Agreement to pay all City capital improvement, development and processing fees.	Capital improvement and development fees will be collected prior to issuance of permits/Final Map.

No.	Requirement	Status
12.	Deposit one hundred thousand dollars (\$100,000) with the City for the purpose of managing and coordinating the widening of Los Angeles Avenue (SR 118) to three (3) travel lanes in each direction between Moorpark Avenue and Spring Road.	The developer deposited one hundred thousand dollars (\$100,000) on August 24, 1999.

City Compliance with Terms of Agreement

The City's responsibilities are included in Section 7 of the agreement and include six (6) specific provisions, as summarized below.

No.	Requirement	Status
1.	Expedite (to the extent possible) the processing of plan checking and related processing.	Plan check is on hold pending resolution of flood control issues.
2.	Units reserved for and sold to low income buyers shall not be subject to air quality (Traffic Management System Management) fees.	To date, no building permits for affordable housing have been issued.
3.	Condition Vesting Tentative Tract Map to expire ten (10) years after its approval or conditional approval, or upon expiration of or earlier termination of this agreement.	The adjacent 37-unit tentative map and both residential planned development permits have expired. Tentative Tract 5053 expires June 16, 2009.
4.	Authorize the City Manager to sign an Early Grading Agreement to allow rough grading prior to City Council approval of a final subdivision map.	An Early Grading Agreement has been prepared, but has not yet been approved. This item is on hold pending resolution of flood control issues.
5.	Allow construction of one or more model homes prior to City Council approval of a final subdivision map.	This item was on hold pending resolution of flood control issues. A new residential planned development permit will be required.
6.	Allow recordation of Final Maps for the VTTM in phases.	This item is on hold pending resolution of flood control issues.

Evaluation of Good Faith Compliance

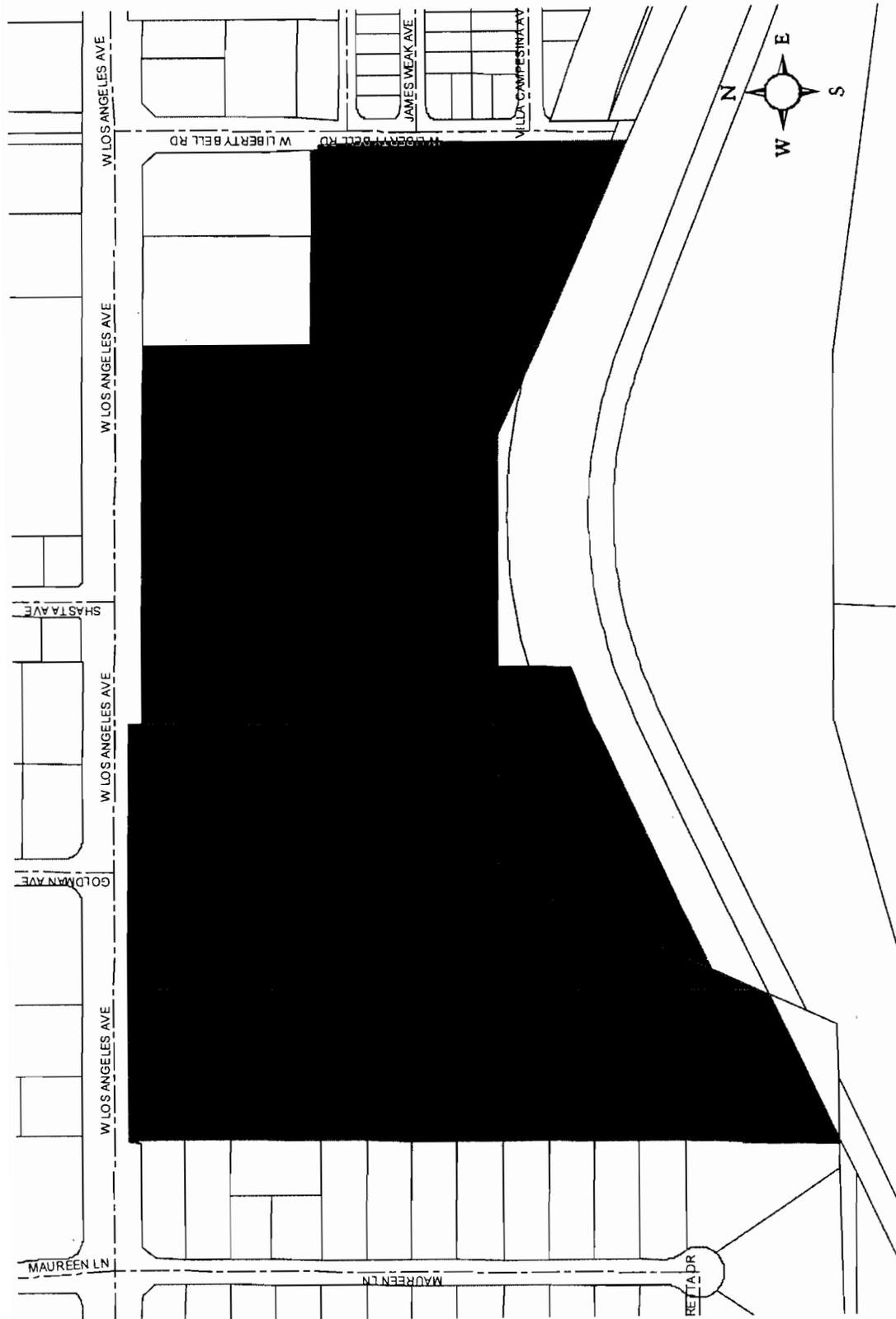
Based on a review of the Development Agreement Annual Review Application and the status of the project, the Community Development Director has determined, on the basis of substantial evidence that Pacific Communities has, to date, complied in good faith with the terms and conditions of the agreement.

STAFF RECOMMENDATION

1. Accept the Community Development Director's report and recommendation that, on the basis of substantial evidence, Pacific Communities has complied in good faith with the terms and conditions of the agreement; and
2. Deem the annual review process complete.

ATTACHMENTS:

1. Location Map
2. Narrative prepared by Pacific Communities



LOCATION MAP

October 24, 2007

Mr. Joseph Fiss
Principal Planner
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021



RECEIVED

OCT 26 2007

CITY OF MOORPARK

Dear Mr. Fiss,

RE: Development Agreement Fees, Tracts 5053 and 5204

Per your letter dated October 15, 2007, enclosed is our check for \$2,400.00 for the processing deposit.

Our status on this project is that we have imported more stockpile material for future construction, and we are beginning the planning of a totally new project in conjunction with discussions we have recently had with City staff, including Barry Hogan, David Bobart and you.

We hope to have a product and a map ready for discussions with you in the near future.

Should you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "David L. Chambers".

David L. Chambers
Director of Engineering

CC ATTACHMENT 2

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